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2d Session

SENATE

REPORT
No. 97-542

WOLF TRAP FARM PARK ACT OF 1982

SEPTEMBER 10 (legislative day, SEPTEMBER 8), 1982.—Ordered to be printed

Mr. WARNER (for Mr. MCCLURE), from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 1999]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1999) to amend the Act to provide for the establishment of the Wolf Trap Farm Park in Fairfax County, Virginia, and for other purposes, having considered the same, reports favorably thereon with an amendment to the text and recommends that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Wolf Trap Farm Park Act of 1982".

SEC. 2. The purposes of this Act are to—

(a) allow the Secretary of the Interior to cooperate with the Wolf Trap Foundation for the Performing Arts (Foundation) in the operation of Wolf Trap Farm Park (Park); and

(b) provide financial assistance to the Foundation for reconstruction of the Filene Center in the Park.

SEC. 3. (a) The Secretary of the Interior is authorized to provide to the Foundation, or its designee, on such terms and conditions as he deems appropriate, for reconstruction of the Filene Center in the Park: (1) a grant not to exceed $9,000,000; and (2) a loan not to exceed $9,000,000 to be repaid in full, with interest on any unpaid obligation at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturity of the loan, plus an allowance adequate, in the judgment of the Secretary of the Interior, to cover the administrative expenses of servicing the loan. In his determination of terms and conditions governing the loan, the Secretary shall fix a term of not more than five years from the date the loan agreement is executed.

(b) For purposes of carrying out the grant and loan under subsection (a) of this section, there are authorized to be appropriated such sums as may be necessary, but not to exceed $18,000,000, and such sums shall remain available until expended.

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(c) All right, title and interest in any reconstructed Filene Center in the Park shall vest in the United States. The Secretary of the Interior is authorized to provide support services in the reconstruction of the Filene Center, as requested by the Foundation, on a reimbursable basis, for the purposes of this Act.

(d) The plans and design for any reconstruction of the Filene Center shall be subject to the approval of the Secretary of the Interior.

(e) The Foundation shall be deemed to have an insurable interest in the physical facilities of the Filene Center in addition to any other insurable interest it may be entitled to in the Filene Center, subject to the terms and conditions of any cooperative agreement pursuant to the Act of October 15, 1966, as amended: *Provided*, That if the Foundation procures insurance, it shall do so at its own expense, and that any proceeds from any insurance recovery shall be applied to the repair or replacement of the Filene Center.

SEC. 4. Section 3 of the Act of October 15, 1966 (80 Stat. 950) is redesignated as section 4 and the following new section is inserted after section 2:

"SEC. 3. The Secretary of the Interior shall cooperate with the Wolf Trap Foundation for the Performing Arts, organized pursuant to the District of Columbia Nonprofit Corporation Act and, as a charitable organization, exempted from taxation under section 501(c)(3) of the Internal Revenue Service Code of 1954, in the operation of the Park, under such terms and conditions as the Secretary deems appropriate.".

PURPOSE OF THE MEASURE

The purpose of S. 1999, as reported, is to provide an authorization for the Secretary of the Interior to give financial assistance to the Wolf Trap Foundation for the Performing Arts by a grant and a loan for the reconstruction of the Filene Center in Wolf Trap Farm Park and to direct the Secretary to cooperate with the Foundation in the operation of the Park.

BACKGROUND AND NEED

Wolf Trap Farm Park was established in accordance with the Act of October 15, 1966 (80 Stat. 950, 16 U.S.C. 284) on approximately 100 acres of land in Fairfax County, donated by Mrs. Jouet Shouse, together with five usuable buildings and funds for construction of the Filene Center. The initial cost of construction for the Center was $3.5 million.

The Park was established, developed, operated and maintained as a park for the performing arts and related educational programs, and for recreation use for the benefit of the general public.

The Secretary of the Interior determined that it would be in the public interest for a private foundation with expertise in the performing arts to present the performing arts program and certain certain related educational activities in the Park and to provide certain services pertaining to such activities under supervision and regulation of the Secretary and his designee, the Director of the National Park Service.

The Wolf Trap Foundation for the Performing Arts was created in November of 1968 for that purpose. It has operated since that time under and pursuant to a written agreement with the Secretary. An agreement between the National Park Service and the Wolf Trap Foundation for the Performing Arts, executed on September 16, 1980 and valid until 1983, outlines the Foundation's duties and obligations in the Park.

The Filene Center was a theater in the Park basically constructed of wood, open at the sides, but covered with a roof and connected to the landscaped hillside by a system of bridges, balconies, and steps.

The Filene Center burned to the ground on April 4, 1982. The Center was a government owned building and was not insured. The Government did not carry insurance on this building but acted as a self-insurer.

Wolf Trap Foundation for the Performing Arts and others have launched an extensive fund raising drive to rebuild the Filene Center.

The National Park Service estimates the base cost to replace the original building and equipment to be $11.4 million. The estimate for safety related items such as fireproofing, sprinkler and fire alarm system, and a separate utility building is $2 million. The estimate for improvements (enlarged stage, lifts, lighting, restrooms) and contract administration costs is $4.5 million. The total estimated cost is $18 million. The National Park Service and the Foundation independently made estimates of the costs to rebuild the Center that are close in comparison and both estimates assumed the same improvements and safety related items. The National Park Service estimate includes the anticipated bid price as well as costs for contingencies. The estimate does not include National Park Service administrative costs.

Additional cost estimates have been prepared by the National Park Service to evaluate the reconstruction of the Filene Center at two locations in the Park other than the original site. The estimated additional cost of relocating the Filene Center to the Meadow Center site is $2.4 million. The additional cost of relocating the Filene Center to the League Area is $3.5 million.

Legislative History

S. 1999 was introduced on December 16, 1981 by Senator Warner. A hearing before the Subcommittee on Public Lands and Reserved Water was held on July 2, 1982. Testimony was received from the Administration in support of S. 1999 and the concepts of funding as they later provided in S. 2759. The Administration transmitted draft legislation to Congress on July 1, 1982. S. 2759 was introduced by Senator McClure (by request) for himself and Mr. Warner on July 20, 1982. H.R. 6875, which is identical to S. 2759, was introduced by Mr. Udall (for himself), Mr. Lujan, and Mr. Wolf in the House on July 27, 1982.

At a business session on August 18, 1982, the Senate Committee on Energy and Natural Resources ordered S. 1999, as amended, favorably reported.

Committee Recommendation and Tabulation of Votes

The Senate Commitee on Energy and Natural Resources in an open business session on August 18, 1982, by unanimous vote of a quorum present recommends that the Senate pass S. 1999, if amended, as described herein.

The rollcall vote on reporting the measure was 14 yeas, 0 nays as follows:

YEAS	NAYS
Mr. McClure	
Mr. Hatfield [1]	
Mr. Domenici	
Mr. Wallop	
Mr. Warner	
Mr. Humphrey	
Mr. Murkowski	
Mr. Nickles	
Mr. East [1]	
Mr. Heinz	
Mr. Jackson	
Mr. Bumpers	
Mr. Ford	
Mr. Melcher	

[1] Indicates voted by proxy.

Committee Amendments

The Committee adopted an amendment offered by Senator Warner in the nature of a substitute to S. 1999 as introduced.

S. 1999, as introduced on December 16, 1981, would amend the Act providing for the establishment of the Wolf Trap Farm Park (80 Stat. 950) by designating the Foundation as the entity responsible for creative activities at the Park.

The substitute was adopted by the Committee as a response to the fire of April 4, 1982 which destroyed the Filene Center.

The Committee essentially adopted the text of S. 2759 as an amendment in the nature of a substitute to S. 1999 with one exception as follows: the Committee deleted subsection 3(d) in S. 2759 as introduced, and inserted a new subsection 3(d) that directs the plans and designs for any reconstruction of the Filene Center be subject to the approval of the Secretary.

Section 1 of the Committee amendment states a short title of the bill.

Section 2 states the purposes of the bill and makes it clear that the Government is providing financial assistance to the Foundation for the reconstruction of the Filene Center in the Park.

The normal funding process for reconstruction of federal buildings is through the annual budget request of the Administration to Congress and an appropriation by Congress. The Foundation, in a unique effort, has agreed to pay for one half of the cost of replacement of the Filene Center. The full cost of replacement and reconstruction is normally borne by the Federal Government. The time span between the casualty loss of a facility and the reconstruction of that facility using funds appropriated to the federal agency and the time by federal contracting laws and regulations, can be as long as five years or longer.

Section 3(a) of S. 1999, as reported, authorizes the Secretary to provide the Foundation a grant not to exceed $9 million and a loan not to exceed $9 million. The Committee noted that the testimony

and subsequent cost estimates submitted by the National Park Service and the Foundation are as follows:

1. Base cost to replace original building and equipment	$11,438,890
2. Safety related items:	
Fireproofing	1,343,250
Sprinkler and fire alarm	288,000
Separate utility building	371,350
Subtotal	2,002,600
3. Improvements	4,526,075
Total	17,967,565

The provisions of section 3(a)(2) provide for the interest rate, loan service costs to be paid by the Foundation and the term of the loan. The Committee expects the Secretary in the determination of the terms and conditions of the loan to establish procedures for monitoring and auditing the contributions to the Foundation.

Section 3(b) authorizes the appropriation of funds not to exceed $18,000,000.

Section 3(c) reaffirms that all rights, title, and interest remain with the U.S. regardless of who pays for a portion of the costs of reconstruction of any Center. The Secretary is authorized to provide support services to the Foundation if requested on a reimbursable basis. The design and planning services of the NPS Denver Service Center could be utilized by the Foundation. The Foundation may also obtain these services from the private sector.

Section 3(d) provides for the Secretary's approval of plans and design for reconstruction of the Filene Center. The Committee expects the Secretary through the NPS to set terms and conditions for:

1. The location of any reconstruction of the Filene Center with consideration given to external noise levels at any location selected; and

2. The review of the plans and design of any reconstruction of the Filene Center prior to submission to the Secretary for approval.

Section 3(e) gives the Foundation an insurable interest in the Filene Center. The insurance, if obtained by the Foundation, is to be at Foundation expense with any proceeds from insurance recovery applied to repair or reconstruction of the Center due to casualty loss.

The Federal Government generally acts as a self-insurer of real property in its ownership. The Filene Center, Federal property administered by the National Park Service, was not insured against loss by fire unless caused by the Foundation, its representatives, employees, contractors or employees of contractors. The fire was determined to be caused by forces other than an act of the Foundation.

However, in a situation where it is in the public interest that the continuity of service be maintained, the National Park Service in concession contracts, in Memoranda of Understanding, and special use permits has required concessioners, individuals, schools and associations to secure and maintain fire insurance and coverage for both their improvements and assigned government improvements. In the event of loss the concessioner is required to use all proceeds of such insurance to repair, rebuild both the concessioner and government improve-

ments. This is a similar situation at Wolf Trap so this is the approach used here.

Section 4 directs the Secretary to cooperate with the Foundation in the operation of the Park. The Act of October 15, 1966 (80 Stat. 95) is amended by section 4. The Committee does not intend that recognition of the Foundation as the entity with whom the Secretary is directed to cooperate in the operation of the Park be interpreted as bestowing tax exempt status under section 501(c)(3) of the Internal Revenue Code. The Internal Revenue Service makes this determination under 501(c)(3). The Committee is not making a determination of tax exempt status, but recognizes in the bill that the Foundation will cooperate in the operation of the Park.

Cost and Budgetary Consideration

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

Regulatory Impact Evaluation

In compliance with paragraph 11(b), Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1999 as reported:

The bill is not a regulatory measure in the sense of imposing Government established standards or significant economic responsibilities on private individuals and businesses. S. 1999 as reported, would (1) allow the Secretary of the Interior to cooperate with the Wolf Trap Foundation for the Performing Arts in the operation of Wolf Trap Farm Park; and (2) provide financial assistance to the Foundation for reconstruction of the Filene Center in the Park.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little if any additional paperwork would result from the enactment of S. 1999.

Executive Communications

The pertinent legislative reports and communications received by the Committee from the Department of the Interior setting forth Executive Agency recommendations relating to S. 1999 are set forth below:

U.S. Department of the Interior
Office of the Secretary,
Washington, D.C., July 1, 1982.

Hon. George Bush,
President of the Senate,
Washington, D.C.

Dear Mr. President: Enclosed is a draft bill, the "Wolf Trap Farm Park Act of 1982," to provide financial assistance to the Wolf Trap Foundation for reconstruction of the Filene Center, recently destroyed in a tragic fire.

We recommend that it be introduced and referred to the appropriate committee for consideration and that it be enacted.

Wolf Trap Farm Park for the Performing Arts was established in 1966 in Vienna, Virginia, as a unit of the National Park System. It quickly became a very popular summer experience for thousands of people in the Washington, D.C., area. Its central feature was the Filene Center, an internationally known showcase for the performing arts. This theater was lost in a devastating fire on April 4, 1982, a tremendous loss not only to the Washington area but also to the Nation. As a Federal facility, the theater was not insured, and its destruction has meant that the performing arts programs in the park have been curtailed or moved to a temporary structure.

We believe the enclosed legislation will enable the Wolf Trap Foundation to rebuild the theater quickly. It recognizes that the Foundation and the Federal Government are cooperative partners in this endeavor and provides financial assistance to aid in the prompt reconstruction of the Filene Center. The Federal Government will share the costs of reconstruction with the Wolf Trap Foundation by authorizing a grant for $9,000,000 and a loan, with interest, for an additional $9,000,000. We urge your support in this matter.

The Office of Management and Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely,

DONALD PAUL HODEL,
Under Secretary.

Enclosure.

A BILL To provide financial assistance to the Wolf Trap Foundation for the Performing Arts for reconstruction of the Filene Center in Wolf Trap Farm Park and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Wolf Trap Farm Park Act of 1982".

SEC. 2. The purposes of this Act are to—

(1) allow the Secretary of the Interior to cooperate with the Wolf Trap Foundation (Foundation) for the Performing Arts in the operation of Wolf Trap Farm Park (Park); and

(2) provide financial assistance to the Foundation for reconstruction of the Filene Center in the Park.

SEC. 3. (a) The Secretary of the Interior is authorized to provide to the Foundation, or its designee, on such terms and conditions as he deems appropriate, for reconstruction of the Filene Center in the Park: (1) a grant not to exceed $9,000,000; and (2) a loan not to exceed $9,000,000 to be repaid in full, with interest on any unpaid obligation at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturity of the loan, plus an allowance adequate, in the judgment of the Secretary of the Interior, to cover the administrative expenses of servicing the

loan. In his determination of terms and conditions governing the loan, the Secretary shall fix a term of not more than five years from the date the loan agreement is executed.

(b) For purposes of carrying out the grant and loan under subsection (a) of this section, there are authorized to be appropriated such sums as may be necessary, but not to exceed $18,000,000, and such sums shall remain available until expended.

(c) All right, title and interest in any reconstructed Filene Center in the Park shall vest in the United States. The Secretary of the Interior is authorized to provide support services in the reconstruction of the Filene Center, as requested by the Foundation, on a reimbursable basis, for the purposes of this Act.

(d) The authority conferred in subsections (a) through (c) of this section shall lapse if funds therefor are not appropriated within five years of the date of enactment of this Act.

(e) The Foundation shall be deemed to have an insurable interest in the physical facilities of the Filene Center in addition to any other insurable interest it may be entitled to in the Filene Center, subject to the terms and conditions of any cooperative agreement pursuant to the Act of October 15, 1966, as amended: *Provided*, That if the Foundation procures insurance, it shall do so at its own expense, and that any proceeds from any insurance recovery shall be applied to the repair or replacement of the Filene Center.

SEC. 4. Section 3 of the Act of October 15, 1966 (80 Stat. 950), is redesignated as section 4 and the following new section is inserted after section 2:

"SEC. 3. The Secretary of the Interior shall cooperate with the Wolf Trap Foundation for the Performing Arts, organized pursuant to the District of Columbia Nonprofit Corporation Act and, as a charitable organization, exempted from taxation under section 501(c)(3) of the Internal Revenue Code of 1954, in the operation of the Park, under such terms and conditions as the Secretary deems appropriate."

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, S. 1999, as ordered reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

PUBLIC LAW 89–671

AN ACT To provide for the establishment of the Wolf Trap Farm Park in Fairfax County, Virginia, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of establishing in the National Capital area a park for the performing arts and related educational programs, and for recreation use

in connection therewith, the Secretary of the Interior is authorized to establish, develop, improve, operate, and maintain the Wolf Trap Farm Park in Fairfax County, Virginia. The park shall encompass the portions of the property formerly known as Wolf Trap Farm and Symphony Hill in Fairfax County, Virginia, to be donated for park purposes to the United States, and such additional lands or interests therein as the Secretary may acquire for purposes of the park by donation or purchase with donated or appropriated funds, the aggregate of which shall not exceed one hundred and forty-five acres.

SEC. 2. The Secretary of the Interior shall administer the park in accordance with the provisions of section 1 of this Act and the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1–4), as amended and supplemented.

SEC. 3. The Secretary of the Interior shall cooperate with the Wolf Trap Foundation for the Performing Arts, organized pursuant to the District of Columbia Nonprofit Corporation Act and, as a charitable organization, exempted from taxation under section 501(c)(3) of the Internal Revenue Service Code of 1954, in the operation of the Park, under such terms and conditions as the Secretary deems appropriate.

SEC. [3.] *4.* There are authorized to be appropriated such sums as may be necessary, but not in excess of $600,000, to carry out the purposes of this Act.

Approved October 15, 1966.